

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JILL KATZ and MICHAEL KATZ, as  
Administrators of the Estate of SARAH  
KATZ, Deceased,

*Plaintiffs,*

v.

PANERA BREAD COMPANY and  
PANERA, LLC,

*Defendants.*

CIVIL ACTION NO. 2:23-cv-  
04135-TJS

**DEFENDANTS' REPLY TO PLAINTIFFS' RESPONSE TO  
MOTION FOR RECONSIDERATION**

Defendants Panera Bread Company and Panera, LLC (“Defendants”) submit the following brief in reply to Plaintiffs’ Response to the Motion for Reconsideration and request for a brief trial continuance. Defendants offer the following two issues.

First, although Plaintiffs complain about the timing of the parties’ meet and confer efforts regarding the trial date (May 2024), Plaintiffs indicate that they “would have been amenable to a reasonable continuance with the Court’s approval,” if that discussion was earlier. [Dkt. 141, p.5] Plaintiffs now also agree to a brief continuance. Thus, in some form or fashion, both sides agree to a

continuance, although disagree on the new trial date by a few weeks (i.e., October 14<sup>1</sup> v. December 2).

Defendants are not intending to interfere with Plaintiffs' counsel's own trial schedule—which Plaintiffs claim the October 14 date actually would (at least for jury selection). [Dkt. 141, p. 5, fn. 3] Defendants also submit that the right to counsel of choice includes the right for its counsel to have a sufficient time to prepare for trial. Hence, a December 2, 2024 date, allows the parties to prepare for and conduct this trial and does not interfere with either side's attachment to other trials.

Second, the only purported prejudice Plaintiffs identify is costs associated with moving the trial since their experts would have to make scheduling changes. [Dkt. 141, p. 5] Although this is inconsistent with Plaintiffs' simultaneous offer to continue the trial to October 14, 2024, this *de minimus* re-scheduling cost of Plaintiffs' experts, if any, does not outweigh the Defendants' right to counsel of choice and extreme prejudice which would result if the Defendants are not allowed to have its counsel of choice try this case (articulated in detail in the Motion to Consideration).

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<sup>1</sup> As indicated in the Motion for Reconsideration, according to recent comments from the presiding judge and the judge's daughter's wedding which he will be attending, there are no guarantees that the *HHIPT* trial will conclude prior to October 14, 2024.

*Nonetheless*, to remove this sole purported issue of Plaintiffs' experts' re-scheduling costs, Defendants will offer to reimburse those re-scheduling costs.

In balancing the right to counsel of choice and the extreme prejudice to Defendants against the lack of any prejudice to Plaintiffs, the balancing weighs heavily in favor of a brief trial continuance to December 2, 2024.

Respectfully submitted,

**SHOOK, HARDY & BACON L.L.P.**

Dated: September 17, 2024

/s/ Marc P. Miles

Marc P. Miles, Esq. (admitted *pro hac vice*)  
Kristy A. Schlesinger, Esq. (admitted *pro hac vice*)  
Gabriel S. Spooner, Esq. (admitted *pro hac vice*)  
5 Park Plaza, Suite 1600  
Irvine, CA 92614  
T 949.475.1500  
[mmiles@shb.com](mailto:mmiles@shb.com)  
[kschlesinger@shb.com](mailto:kschlesinger@shb.com)

Joseph H. Blum, Esq.  
2001 Market Street, Suite 3000  
Philadelphia, PA 19103  
T 215.278.2555  
[jblum@shb.com](mailto:jblum@shb.com)

*Attorneys for Defendants Panera Bread  
Company and Panera, LLC*

**CERTIFICATE OF SERVICE**

I, Marc P. Miles, hereby certify that on the 17th day of September 2024, I caused a true and correct copy of Defendants' Reply to Response to Motion for Reconsideration to be served via the Court's e-filing system upon all counsel of record.

/s/ Marc P. Miles  
Marc P. Miles